

November 3, 2004

The Honorable A.G. Kawamura, Secretary  
California Department of Food and Agriculture  
1220 N Street  
Sacramento, CA 95814

Dear Secretary Kawamura:

Dairy Institute of California is requesting that the Department call a hearing to consider changes to the Class 1 pricing formulas in Northern and Southern California. Dairy Institute of California is a trade association representing over 70 percent of the fluid milk, cultured milk products, and frozen dairy products processed in the state. The attached extracts of the Stabilization and Marketing Plans for Market Milk for the Northern and Southern California Marketing Areas contain proposed changes to Class 1 pricing formulas and comprise Dairy Institute's petition for this hearing. This hearing is being requested pursuant to Division 21, Part 3, Chapter 2, Article 4 through Article 9 of the Food and Agricultural Code, including Sections 61891 through 62079.

**Reasons why changes are needed:**

In Section 61802(e) of the Food and Agricultural Code, the Legislature declares that: "It is the policy of this state to promote, foster, and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including market milk, and to eliminate economic waste, destructive trade practices, and improper accounting for market milk purchased from producers. Section 61802(e) amplifies this theme by providing, in part, that "...it is essential to establish minimum producer prices at fair and reasonable levels so as to generate reasonable producer incomes that will promote the intelligent and orderly marketing of market milk in the various classes...." To promote these goals, the Food and Agricultural Code directs the California Department of Food and Agriculture (CDFA) to establish minimum prices that California processors must pay for market milk.

At the present time, California's Class 1 pricing formula is not advancing these goals. To the contrary, California's Class 1 prices, which are established by the current formula, are creating an economic disincentive for California's fluid processing plants (Class 1 plants)

to purchase milk supplied by California producers. Because of the disincentives built into the pricing formulas currently employed by the Stabilization and Marketing Plans for Market Milk, California processors actually have an incentive to purchase milk from more competitive sources. These same economic disincentives are motivating processors to build new processing plants outside the state, while California processing plants are being closed. The high Class 1 price levels produced by California's current pricing formulas, when coupled with the already high cost of doing business within the state of California, are among the factors leading to these undesirable changes in California's dairy industry.

CDFA has an obligation to mitigate this developing harm. In Section 62062, the Legislature has directed that: "If the director adopts methods or formulas in the plan for designation of prices, the methods or formulas shall be reasonably calculated to result in prices that are in reasonable and sound economic relationship with the national value of manufactured milk products." Furthermore, Section 62062 provides that: "In establishing the prices, the director shall take into consideration any relevant economic factors...." Current pricing formulas fail to establish price levels that make California produced milk competitive. The current formulas also discourage plants from continuing to operate within California and discourage the orderly marketing and movement of California producer milk to California Class 1 plants. These facts are all relevant economic factors that must be considered.

Dairy Institute believes that a careful consideration of these factors highlights the immediate need to adjust California's Class 1 formula. It is clearly within the jurisdiction of CDFA to establish price formulas that determine how much California processors must pay California's producers and California dairy cooperatives for their milk. Dairy Institute's members believe that an adjustment to Class 1 prices is necessary to "enable the dairy industry, with the aid of the state, to develop and maintain satisfactory marketing conditions..." (Section 61085(d)). Unless the Class 1 price level is reduced to make California milk more competitive, processing plants in California will have a continuing incentive to both leave California and to purchase milk from more competitive sources. In turn, this will undermine the Legislature's goal of promoting, fostering, and encouraging "...the intelligent production and orderly marketing of commodities necessary to its citizens, including market milk..." and will ultimately deprive California producers of their ability to continue benefiting from the higher-valued Class 1 market.

### **Description of requested changes**

Dairy Institute proposes that the Commodity Reference Price (CRP) adjuster employed in the calculation of the Class 1 solids not fat and fluid carrier prices be changed from its current value of +\$0.464 per hundredweight to a new value of - \$0.441 per hundredweight. These changes should be made to both the Northern (Plan 44) and Southern (Plan 59) California Stabilization and Marketing Plans. The proposed changes will help make California-produced bulk milk competitive. In turn, this will both encourage Class 1 processors to keep their operations in California and advance the economic interests of California producers.

Dairy Institute requests that a hearing to consider our petition be called so that any changes resulting from the hearing could be implemented as soon as possible. Thank you for your consideration of our request.

Sincerely,

Rachel Kaldor  
Executive Director

cc     Kim Myrman  
       Kelly Krug  
       Candace Gates

**Southern California Stabilization and Marketing Plan (Plan 59), Proposed Changes:**

**Article III**

**Class Prices**

Section 300.0. The minimum class prices for the milk fat and skim milk components of market milk, market cream, and market skim milk f.o.b. the pool plant or nonpool plant located within this Marketing Area where the milk was first received from producers, shall be as follows:

- (A) The minimum monthly prices for components used for Class 1 shall be determined prior to the beginning of each month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:
- (1) For all milk fat, not less than the price per pound computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less a butter adjuster of ten cents (\$0.10), and the result multiplied by a yield factor of 1.2.
  - (2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, ~~plus forty-six and four-tenths cents (\$0.464)~~ **less forty four and one tenth cents (\$0.441)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.76 and divided by 8.7.
  - (3) For all fluid carrier, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, ~~plus forty-six and four-tenths cents (\$0.464)~~ **less forty four and one tenth cents (\$0.441)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.24 and divided by 87.8.

**Northern California Stabilization and Marketing Plan (Plan 44), Proposed Changes:**

**Article III**

**Class Prices**

Section 300.0. The minimum class prices for the milk fat and skim milk components of market milk, market cream, and market skim milk f.o.b. the pool plant or nonpool plant located within this Marketing Area where the milk was first received from producers, shall be as follows:

- (B) The minimum monthly prices for components used for Class 1 shall be determined prior to the beginning of each month, using the following formulas and procedures, except as such formulas and procedures may be modified by Paragraph (H) of this Section:
- (1) For all milk fat, not less than the price per pound computed by the formula using the butter price determined pursuant to Subparagraph (A)(5) of this Section, less a butter adjuster of ten cents (\$0.10), and the result multiplied by a yield factor of 1.2.
  - (2) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Commodity Reference price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, ~~plus forty-six and four-tenths cents (\$0.464)~~ **less forty four and one tenth cents (\$0.441)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.76 and divided by 8.7.
  - (3) For all fluid carrier, not less than the price per pound computed by the formula using the Commodity Reference Price per hundredweight determined pursuant to Subparagraph (A)(4) of this Section, ~~plus forty-six and four-tenths cents (\$0.464)~~ **less forty four and one tenth cents (\$0.441)**, less 3.5 times the fat price per pound determined pursuant to Subparagraph (A)(1) of this Section, all multiplied by 0.24 and divided by 87.8, and then \$0.0031 per pound subtracted from the result.